

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MFB Fertility Inc., a Colorado Corporation,)	
)	
Plaintiff,)	Case No. 2023-cv-03854
)	
v.)	
)	
Action Care Mobile Veterinary Clinic, LLC, a)	JURY TRIAL DEMANDED
Maryland limited liability company,)	
)	
Defendant.)	

JOINT STATUS REPORT

Plaintiff, MFB Fertility Inc., by and through its counsel, Gary I. Blackman and Erin Mayer with Levenfeld Pearlstein, LLC and Defendant, Action Care Mobile Veterinary Clinic, LLC, by and through its counsel, Ilya G. Zlatkin with Zlatkin Cann Entertainment, files this Joint Status Report.

Nature of Action. This is an action for copyright and trademark infringement. Plaintiff, MFB Fertility Inc. (“MFB”), researches, develops, and sells in-home tests for fertility tracking purposes. Defendant, Action Care Mobile Veterinary Clinic, LLC (“Action Care”), is an online retailer specializing in the sale of ovulation test strips under the trade name Action Care Wellness and using the mark “OVUPROOF” in relation to such ovulation test strips.

Procedural Status. Action Care waived service of summons and filed its appearance on July 24, 2023 and, on September 15, 2023, filed a Motion to Dismiss Plaintiff’s copyright infringement claim for failure to state a cause of action pursuant to Fed. R. Civ. P. 12(b)(6) (along with a motion for attorneys’ fees relating thereto) (Dkt. 10) and filed a Memorandum in Support Thereof (Dkt. 11). Action Care intends to file its answer (to Plaintiff’s trademark claim), affirmative defenses

and counterclaims by September 22, 2023, asserting claims against MFB for misrepresentation under Section 512(f) of the DMCA, tortious interference with prospective economic advantage, defamation, and cancellation of MFB's "PROOV" trademark.

Dated: September 18, 2023

Respectfully submitted,

MFB Fertility Inc.

Action Care Mobile Veterinary Clinic, LLC

By: /s/ Gary I. Blackman

By: /s/ Ilya G. Zlatkin

Gary I. Blackman (ARDC # 6187914)
Erin M. Mayer (ARDC # 6313447)
Levenfeld Pearlstein, LLC
130 N. Riverside Plaza, Suite 1800
Chicago, Illinois 60606
Tel.: (312) 346-8380
Fax: (312) 346-8434
gblackman@lplegal.com

Ilya G. Zlatkin (ARDC #6314344)
ZLATKIN CANN ENTERTAINMENT
4245 North Knox Avenue
Chicago, Illinois 60641
Tel.: (312) 809-8022
Fax: (312) 809-6918
ilya@zce.law

Counsel for Plaintiff

Counsel for Defendant

CERTIFICATE OF SERVICE

I, Gary I. Blackman, an attorney, hereby certify that on September 18, 2023, I caused a true and correct copy of the foregoing to be filed with the Clerk of the Court using the CM/ECF filing system, which will send notification of such filing to all attorneys of record.

/s/ Gary I. Blackman